

JKG

FORM TO BE USED BY A PRISONER FILING A
42 U.S.C. § 1983 CIVIL RIGHTS COMPLAINT
FOR THE [EASTERN] DISTRICT OF PENNSYLVANIA

Donna Marie Baker
Matthew Ray Martin
(Enter the full name of the plaintiff or plaintiffs)

I. CAPTION

08-cv-5331

v.

Joseph Diaz
Dawn Fister
George Wagner
(Enter the full name of the defendant or defendants)
Janine Quigley

II. PARTIES

a. Plaintiff

Full name: Donna Marie Baker
Prison Identification number: DM5845
Place of present confinement: SCI Cambridge Springs
Address: 451 Fullerton Ave. Cambridge Springs, Pa 16403
Place of confinement at time of incidents or conditions alleged in
complaint, including address:

Berks County Prison 1287 County Welfare Rd. Leesport, Pa

Additional plaintiffs: Provide the same information for ant additional plaintiffs
plaintiffs on the reverse of this page or on a separate sheet of paper.

b. Defendants: (list only those defendants named in the caption of the
complaint, section I)

1. Full name including title: Joseph Diaz - correctional officer
Place of employment and section or unit: Berks County Prison Funit - E-unit
2. Full name including title: Dawn Fister - Lt.
Place of employment and section or unit: Berks County Prison - 1st shift Lt.
3. Full name including title: George Wagner
Place of employment and section or unit: Berks County Prison - Warden
4. Full name including title: Janine Quigley
Place of employment and section or unit: Berks County Prison - Deputy Warden

Additional defendants: Provide the same information for any additional
defendants on the reverse of this page or on a separate sheet of paper.

III. PREVIOUS LAWSUITS

Instructions:

If you have filed other lawsuits in any federal or state court dealing with the same facts as this complaint or other facts related to your imprisonment, you must provide the information requested below. If you have not filed other lawsuits, proceed to Section IV, Administrative remedies, on this page.

If you have filed other lawsuits, provide the following information.

Parties to your previous lawsuits:

Plaintiffs _____

Defendants _____

Issues: _____

Court: if federal, which district? _____

If state, which county? _____

Docket number: _____ *Date filed:* _____

Name of presiding judge: _____

Disposition: (check correct answer(s)); Date: _____

Dismissed _____ *Reason?* _____

Judgment _____ *In whose favor?* _____

Pending _____ *Current Status?* _____

Other _____ *Explain* _____

Appeal filed? _____ *Current Status?* _____

Additional lawsuits. Provide the same information concerning any other lawsuits you have filed concerning the same facts as this action or other facts related to your imprisonment. You may use the back of this page or a separate sheet of paper for this purpose.

IV. ADMINISTRATIVE REMEDIES

Instructions:

Provide the information requested below if there is an administrative procedure to resolve the issues you raise in this complaint. Examples of administrative procedures include review of grievances, disciplinary action, and custody issues. If no administrative procedures apply to the issues in this complaint, proceed to Section V, Statement of Claim, on page 4.

- a. Describe the administrative procedures available to resolve the issues raised in the complaint.

Type of procedure. (Grievance, disciplinary review, etc.)

wrote numerous grievances, spoke with prison staff constantly.

Authority for procedure. (DC-ADM, inmate handbook, etc.)

County

Formal or informal procedure. both

Who conducts the initial review? Sgt. Gilmour, Deputy Warden Quigley

What additional review and appeals are available? none. Due to us both being constantly moved from county to county instead of dealing with what happened.

- b. Describe the administrative procedures you followed to resolve the issues raised in this complaint before filing this complaint:

On what date did you request initial review? December 8, 2006

What action did you ask prison authorities to take? I asked them to review what happened to us and to do an investigation against the officer.

What response did you receive to your request? none. When I did speak to prison staff I was threatened. Due to us both being moved they just brushed it away.

What further review did you seek and on what dates did you file the requests? December 29, 2006, January 9, 2007, January 16, 2007. We sought the same. We wanted Officer Diaz investigated and fired for what he did to us.

What responses did you receive to your requests for further review?

We received no responses. They decided to move us around from county to county instead.

- c. If you did not follow each step of the administrative procedures available to resolve the issues raised in this complaint explain why.

V. STATEMENT OF CLAIM

Instructions:

State here as briefly as possible the facts of your case. Use plain language and do not make legal arguments or cite cases or statutes. State how each defendant violated your constitutional rights. Although you may refer to any person, make claims only against the defendants listed in the Caption, Section I. Make only claims which are factually related. Each claim should be numbered and set forth in a separate paragraph with an explanation of how the defendants were involved. Use the reverse of this page or a separate sheet of paper if you need more space.

Statement of claim:

- 1) On October 31, 2006 I was sexually and physically assaulted by Officer Joseph Diaz. He threatened our lives and the lives of our children. Before he left he licked my face. I took a piece of tape and put it on my face to collect his DNA.
- 2) On Monday November 13, 2006 I met with my unit counselor to tell her what had happened to me. I wrote six requests to Lt. Fister and Deputy Warden Quigley but I received no response. My counselor wrote a detailed report and sent it to Deputy Warden Quigley. Somehow the report got lost.
- 3) On Tuesday November 21, 2006 I spoke with Sgts. Gilmaur and Lassone and explained what happened to me. Sgt. Gilmaur told me he would speak with Deputy Warden Quigley the next day.

VI. RELIEF

Instructions: Briefly state exactly what you want the court to do for you.

Relief sought:

- 1) We want the prison and the defendants to have a entry of declaratory judgement that our rights were violated.
- 2) The award of compensatory and punitive damages.
- 3) The award of court costs and litigation expenses.
- 4) For officer Diaz to be fired from his job and for Lt. Fister to retire.

VII. DECLARATION AND SIGNATURE

I (we) declare under penalty of perjury that the foregoing is true and correct.

10/26/2008
DATE

10/20/2008

Donna Marie Baker
SIGNATURE OF PLAINTIFF (S)

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Matthew Ray Martin

and meet with me to get a formal statement.

4) On Wednesday November 22, 2006, I met with Sgt. Gilmore. I gave him a formal statement and the DNA sample. I later met with Deputy Warden Quigley and Sgt. Gilmore. I took a journal I had of all the attacks that occurred since our being arrested on July 12, 2005, at Berks County Prison. They told me they would meet with me on November 27, 2006 and start an investigation. They never met with me. I asked them to speak with my fiancé Matthew R. Martin. They did.

5) On Thursday November 23, 2006 Officer Diaz was on E-unit. It was the unit Matthew R. Martin was on. Matthew confronted Officer Diaz about what happened to me. Officer Diaz attacked Matthew and admitted to him that he did attack me and would continue to come after the both of us if Matthew kept testifying. Matthew was locked down on Thursday November 23rd and Friday November 24, 2006. Sgt. Gilmore said it was for his own safety due to Officer Diaz working on his unit both days.

6) Over the next three weeks we both were

harassed by Officer Diaz, and other Officers. I spoke to Sgt. Gilmour numerous times and wrote out statements about what occurred. He continued to tell me an investigation was being done at the Warden's request. I was told the state police would be in to talk with us. No one ever came.

7) Numerous Officers told us that Officer Diaz bragged about what he was doing to us. One female Officer wrote Officer Diaz up for calling a female inmate to the medical unit where he was working, just for his own sexual pleasure. Sgt. Gilmour showed me the write up and the female Officer told me she did it.

8) On December 29, 2006 I spoke with Lt. Fister. She yelled, screamed and threatened me. She threatened me she was going to put me in the R.H.U. if I kept making trouble. She said I was lying about everything and said I never gave them a DNA sample. I met with her at Deputy Warden Quigley's request due to Officer Diaz being on our units even though he was told to stay away from our units and all areas that have to do with the female's. Numerous officers ask him to leave the unit when he comes on the female unit.

9) On January 14, 2007 I talked to Sgt. Gilmore. He told me he wasn't allowed to talk to me about what was going on. He said it came from the Warden's office.

10) On Thursday January 25, 2007 I was sent to Centre County Correctional Facility. Matthew was being housed at Chester County Prison.

10) We were both moved to numerous county Prisons to be housed because of all of this. Sometimes we didn't even get to meet with our attorneys before we went to court. We both had ineffective counsel because of this. We both have appeals in in Lancaster County. We both missed court dates due to the courts not knowing where we were.

11) With the money they spent on housing us at so many county prison, they could of and should of did a proper investigation and found out everything we said was true and fired Officer Diaz and saved the county alot of money.

12) Our rights were violated due to the attacks over a long period of time. Each person named in the suit should be found guilty due to they just brushed everything aside and moved us away so it didn't have to be

dealt with. The Warden knew and did nothing. He then told Deputy Warden Quigley to do nothing and have me moved away. She then told Lt. Fister the same and to have me moved away. Which gave Officer Diaz his job and the knowledge of what he got away with. They should all be guilty of us not having proper legal services. We were moved so far away from our county in which our charges were from.